

**MINUTES
LANCASTER COUNTY BOARD OF EQUALIZATION
TUESDAY, SEPTEMBER 18, 2001
COUNTY COMMISSIONERS CHAMBERS
FIRST FLOOR, COUNTY-CITY BUILDING
1:30 P.M.**

Commissioners Present: Kathy Campbell, Chair
Bob Workman, Vice Chair
Bernie Heier
Larry Hudkins
Ray Stevens

Others Present: Connie Ahlschwede, County Assessor's Office
Kerry Eagan, Chief Administrative Officer
David Johnson, Deputy County Attorney
Bruce Medcalf, County Clerk
Trish Owen, Deputy County Clerk
Gwen Thorpe, Deputy Chief Administrative Officer

The Board of Equalization meeting was convened at 1:30 p.m.

The Chair requested that the introduction regarding the moment of silence and the reports from the County Sheriff and the Emergency Management Director with respect to the terrorists attacks be placed with the regular Board of Commissioners meeting minutes dated September 11, 2001.

- 1) **MINUTES: Approval of the minutes of the Board of Equalization meeting held on Tuesday, September 11, 2001. (A copy of these minutes is on file in the Office of the Lancaster County Clerk.)**

MOTION: Hudkins moved and Stevens seconded approval of the minutes of the Board of Equalization dated September 11, 2001 with the change as requested by the Chair. Campbell, Hudkins, Workman and Stevens voted aye. Heier abstained from voting. Motion carried.

2) **ADDITIONS AND DEDUCTIONS:**

Approval of 16 additions and deductions to the tax assessment rolls per Exhibit A.

MOTION: Workman moved and Heier seconded approval. Heier, Campbell, Stevens, Hudkins and Workman voted aye. Motion carried.

3) **MOTOR VEHICLE TAX EXEMPTIONS:**

**BryanLGH Medical Center
Immanuel Temple Apostolic
Sacred Heart Church**

MOTION: Heier moved and Workman seconded approval of motor vehicle tax exemptions for Immanuel Temple Apostolic and Sacred Heart Church and to also approve a motor vehicle tax exemption for BryanLGH Medical Center subject to the applicant titling and registering the vehicle(s). Stevens, Workman, Heier, Campbell and Hudkins voted aye. Motion carried.

4) **SETTING OF A PUBLIC HEARING FOR NOTICE OF VALUATION CHANGE:**

Setting of a public hearing for Tuesday, October 2, 2001 at 2:30 p.m. in the County Commissioners Chambers, Room 112, on the first floor of the County-City Building regarding notice of valuation change for omitted or undervalued property for the following:

**ANT L.L.C.
Arlington Properties Inc.
Sanitary Improvement District #2
Doris M. Heineke
Marlo L. and Amy L. Roth
Mark R. Willet and Tamara L. Nielsen**

MOTION: Heier moved and Workman seconded to set public hearings for Tuesday, October 2, 2001 at 2:30 p.m. regarding notice of valuation change for omitted or undervalued property for ANT L.L.C., Arlington Properties Inc., Sanitary Improvement District #2, Doris M. Heineke, Marlo L. and Amy L. Roth and Mark R. Willet and Tamara L. Nielsen.

5) **GREENBELT RECAPTURE APPEAL FOR 1998-2000 FOR THE FOLLOWING:**

Bobby L. Purviance

6) **NOTICE OF VALUATION CHANGE FOR OMITTED OR UNDERVALUED PROPERTY FOR THE FOLLOWING:**

Christ United Methodist Church
Russell L. Cowan
Jason D. and Shawn R. Fergus
TJK Investments

7) **APPEAL FILED ON PENALTY ASSESSED ON PERSONAL PROPERTY FOR THE FOLLOWING:**

Tom Larson Music, Inc.

8) **REMOVAL OF LATE FILING PENALTY FOR 2001 FOR THE FOLLOWING:**

Malcolm Methodist Church

9) **TAXABLE STATUS FOR 2001 FOR THE FOLLOWING:**

Southeast Community College (2 exemptions)
University of Nebraska Foundation (11 exemptions)

The Chair requested that Items 5 through 9 be held for one week.

MOTION: Heier moved and Stevens seconded to defer Board of Equalization Items 5 through 9 for one week. Heier, Workman, Stevens, Campbell and Hudkins voted aye. Motion carried.

10) **ADJOURNMENT:**

MOTION: Workman moved and Heier seconded adjournment of the Board of Equalization meeting at 1:42 p.m.

Bruce Medcalf
County Clerk

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Others Present: Kerry Eagan, Chief Administrative Officer
David Johnson, Deputy County Attorney
Bruce Medcalf, County Clerk
Trish Owen, Deputy County Clerk
Gwen Thorpe, Deputy Chief Administrative Officer

The Board of Commissioners meeting was convened at 1:42 p.m.

- 1) **MINUTES:** Approval of the minutes of the Board of Commissioners meeting held on Tuesday, September 11, 2001. (A copy of these minutes is on file in the Office of the Lancaster County Clerk.)

MOTION: Workman moved and Stevens seconded approval of the minutes of the Board of Commissioners meeting dated September 11, 2001. Campbell, Hudkins, Workman and Stevens voted aye. Heier abstained from voting. Motion carried.

- 2) **CLAIMS:** Approval of all claims processed through Tuesday, September 18, 2001.

MOTION: Workman moved and Heier seconded approval. Heier, Campbell, Stevens, Hudkins and Workman voted aye. Motion carried.

- 3) **SPECIAL PRESENTATIONS:**

A. A Certificate of Appreciation was presented to the Nebraska Commission for the Blind and Visually Impaired for participating with Lancaster County and the City of Lincoln in the Work and Gain Experience in the Summer (WAGES) Program.

4) **PUBLIC HEARINGS:**

- A. **County Special Permit 187, Prairie Vista Community Unit Plan, requested by Lyle Loth of ESP, on behalf of Andrew and Tamera Ingwerson, consisting of six single family dwelling units, on property located south of North 176th Street and Fletcher Avenue in Lancaster County, Nebraska.**
- B. **County Preliminary Plat 01009, Prairie Vista, requested by Lyle Loth of ESP, on behalf of Andrew and Tamera Ingwerson, consisting of six residential acreage lots, on property located south of North 176th Street and Fletcher Avenue in Lancaster County, Nebraska.**

The Chair opened the public hearings and asked if anyone wished to testify on either the special permit or the preliminary plat.

Mike DeKalb, Planning Department, stated the applicant had met all of the requirements and submitted documentation with respect to additional notes covering the conditions as required (Exhibit 3).

In response to a question asked by Heier, Andrew Ingwerson, applicant, appeared and noted that the lots to the south are five acres.

The Chair asked if anyone else wished to testify.

Sharon Post, 4850 North 176th Street, appeared in opposition to the proposals noting the following concerns:

- ▶ Road maintenance
- ▶ Increased traffic
- ▶ Rural water not being extended to the residences
- ▶ Water tables

The Chair asked if anyone else wished to testify.

No one appeared the hearings were closed.

MOTION: Heier moved and Stevens seconded approval of County Special Permit 187 and County Preliminary Plat 01009. Hudkins, Stevens, Workman, Heier and Campbell voted aye. Motion carried.

5) **OLD BUSINESS:**

- A. An agreement with Nebraska Legal Services for legal representation for indigent juveniles in abuse or neglect cases and law violations and status offenses, beginning July 1, 2001 and ending June 30, 2002. The County will pay \$256,000 for these services. (C-01-438)

MOTION: Workman moved and Heier seconded approval of the agreement with Nebraska Legal Services. Heier, Workman, Campbell, Hudkins and Stevens voted aye. Motion carried.

6) **NEW BUSINESS:**

- A. A resolution in the matter of condemning the cowardly and deadly acts of terrorism which occurred in the United States of America on Tuesday, September 11, 2001. (R-01-94)

The Chair read the resolution into record.

MOTION: Heier moved and Workman seconded approval of Resolution 01-94. Heier, Workman, Hudkins, Campbell and Stevens voted aye. Motion carried.

- B. A contract between the Lancaster County Engineering Department and S.P. Olson Enterprises, in the amount of \$20,564.15, for construction on Project Number 02-08, repair of County structure O-153 located on Southwest 12th Street between Yankee Hill Road and Rokeby Road. The work will be completed on or before October 12, 2001. (C-01-465)

MOTION: Heier moved and Hudkins seconded approval of a contract with S.P. Olson Enterprises. Campbell, Stevens, Workman, Heier and Hudkins voted aye. Motion carried.

6) **NEW BUSINESS CONTINUED:**

C. Grant contracts with the following agencies, beginning July 1, 2001 and ending June 30, 2002:

- ▶ House of Hope Inc., in the amount of \$45,000, for a transitional residential Halfway house (C-01-470)
- ▶ Berniklau Educational Solutions Team (B.E.S.T.), in the amount of \$112,320, for a day reporting center for eight juveniles (C-01-471)
- ▶ Hispanic Community Center, in the amount of \$7,500, for the Open Door Program (C-01-472)

MOTION: Heier moved and Workman seconded approval of grant contracts with House of Hope Inc., Berniklau Educational Solutions Team and the Hispanic Community Center. Heier, Workman, Stevens, Campbell and Hudkins voted aye. Motion carried.

D. An agreement between Lancaster County, the City of Lincoln and United Way of Lincoln to jointly provide funding for a contract with the Public Policy Center for implementation of the Community-Based Human Services Needs Assessment. The City of Lincoln, United Way of Lincoln and Lancaster County shall each pay \$35,000 of the total contract cost of \$105,000. (C-01-474)

MOTION: Heier moved and Stevens seconded approval of an agreement with the City of Lincoln and United Way of Lincoln. Stevens, Hudkins, Heier, Workman and Campbell voted aye. Motion carried.

E. A contract between Lancaster County and the Board of Regents, University of Nebraska, University of Nebraska Public Policy Center for a completed 12 month plan of implementation of the Comprehensive Human Services Needs Assessment Activities, beginning July 1, 2001 and ending June 30, 2002. The maximum amount to be paid shall not exceed \$105,000. (C-01-473)

David Johnson, Deputy County Attorney, requested the contract be held.

By direction of the Chair, the contract with the Board of Regents, University of Nebraska, University of Nebraska Public Policy Center was held until the County Attorney's office places it back on the agenda.

6) **NEW BUSINESS CONTINUED:**

F. Recommendation from the Purchasing Agent and the Corrections Director to award a bid to John Henry's Plumbing, Heating and Air and Loop Tech International, Inc. to provide and install a ground loop heat pump piping system. This is an award of \$120,000 for the loop field and \$203,779 for the equipment and installation of the interior work, for a total amount of \$323,779. (B-01-41)

Mike Thurber, Corrections Director, gave a brief background with respect to the bid.

Roger VanLaningham, Lincoln Electric System, gave a brief presentation regarding a study of four elementary schools built in Lincoln in 1994 and 1995.

Bob Jarrett, Maintenance/Construction Manager for the Corrections Department, gave an explanation regarding their current heating/cooling system.

Hudkins stated he feels the new system needs to be installed, however, the cost is approximately \$320,000 and there is only \$150,000 budgeted for the project.

Dave Kroeker, Budget and Fiscal Officer, stated he spoke with the Nebraska Association of County Officials (NACO) regarding a lease/purchase agreement. He stated they (NACO) indicated the County could borrow the additional monies at an interest rate of 3.75 percent on a five year loan and at 4.1 percent interest on a seven year loan.

MOTION: Hudkins moved and Workman seconded to approve the bid and pursue obtaining the additional funds through a NACO lease/purchase agreement. Hudkins, Workman, Heier, Campbell and Stevens voted aye. Motion carried.

G. Request of Terry Wagner, Lancaster County Sheriff, to promote Todd Duncan to Captain and set his salary at \$58,233, effective September 20, 2001. (M-01-107)

MOTION: Heier moved and Hudkins seconded approval. Campbell, Heier, Stevens, Workman and Hudkins voted aye. Motion carried.

6) **NEW BUSINESS CONTINUED:**

H. Authorization to submit a grant application to Woods Charitable Fund, in the amount of \$25,000, for the purpose of broadening the partnership and invested leadership in the Community Services Implementation Project (CSIP), effective September 14, 2001. (M-01-108)

MOTION: Hudkins moved and Heier seconded approval. Hudkins, Campbell, Stevens, Heier and Workman voted aye. Motion carried.

I. A claim for attorney's fees from Mary Kay Hansen, Esq., pursuant to Resolution 4630, for 25 percent of retroactive Social Security benefits which total \$305. The amount of the claim would be \$76.25. (M-01-109)

MOTION: Stevens moved and Workman seconded approval. Campbell, Hudkins, Heier, Workman and Stevens voted aye. Motion carried.

J. A political subdivision tort claim filed against Corrections by Jeremy Ross, in the amount of \$21.80, for lost property.

MOTION: Hudkins moved and Stevens seconded to accept the Director's recommendation and deny the tort claim filed by Jeremy Ross. Heier, Campbell, Stevens, Hudkins and Workman voted aye. Motion carried.

K. A political subdivision tort claim filed against Lancaster County by Dianna Hartigan.

Diana Hartigan, claimant, appeared and presented a packet of information into the record (Exhibit 1) containing the following:

- ▶ Copy of value of the vehicle from the 1992 N.A.D.A. Appraisal Guide
- ▶ Pictures of the vehicle
- ▶ Copy of the vehicle title
- ▶ Stipulation for Release of Motor Vehicle from District Court
- ▶ Letter from Tina Marie Hartigan
- ▶ Letter from Roger Bjorklund
- ▶ Letter from Dianna Hartigan
- ▶ Documentation of bankruptcy
- ▶ Historic ARM Indexes

6) **NEW BUSINESS CONTINUED:**

Hudkins inquired about the amount of the claim.

Heier responded that the claim was for \$9,495.27.

Stevens questioned the stipulation, contained in Exhibit 1, indicating that the vehicle could be released.

Mike Thew, Chief Deputy County Attorney for the Civil Division, explained that the car was impounded in late 1992 and Mrs. Hartigan's daughter hired an attorney to get the vehicle back in late 1993. He said part of that attorney's effort was drafting the stipulation. The County Attorney's office agreed to sign the stipulation because part of the stipulation was that Mr. Bjorklund would not raise any subsequent appeals or use as a basis for any subsequent appeals the fact that the vehicle had been released. Thew stated Mr. Bjorklund would not sign the stipulation, thus the vehicle was not released.

Hudkins asked who ordered the impoundment.

Thew explained that the Lincoln Police Department investigated the crime and the County Attorney's office was the attorney for the State of Nebraska. He stated the police took possession of the vehicle as part of their investigation and stored the car with the vendor who they contract with to hold vehicles for them, however, the County Attorney's office must release the vehicle because they are the attorney for the State of Nebraska.

In response to a question asked by Stevens regarding whether there was any basis, statutorily, to pay the claim, Thew explained that the claim was filed under the Tort Claims Act which states in Section 13-910 that the act shall not apply to "any claim arising with respect to the assessment or collection of any tax or fee or the detention of any goods or merchandise by any law enforcement officer". He stated the case falls within that exception of the Tort Claims Act and because it is excepted by statute that means the County has absolute immunity for liability for those acts. Thew stated that doesn't mean that the County Board doesn't have the authority to pay if they choose to do so. He said both the statutory law and the common law are the same; there is no obligation to pay. Thew added there have been a number of claims in the past and there will be future claims similar to Mrs. Hartigan's and that the County Board has not paid those past claims.

6) **NEW BUSINESS CONTINUED:**

Workman inquired about security at the impound lot.

Thew stated the City of Lincoln contracts with a private provider and explained that the lot is completely fenced, with one entrance.

In response to a question asked by Workman regarding damage to the car, Thew stated both detectives he spoke to had a clear recollection of the damage to the vehicle.

Thew explained the difference between trade-in value and wholesale value and submitted documentation with regards to Kelley Blue Book Suggested Retail Values (Exhibit 2) into the record.

MOTION: Heier moved and Hudkins seconded to deny the tort claim. Heier and Campbell voted aye. Stevens, Workman and Hudkins voted no. Motion failed.

Hudkins asked if the County has a responsibility to maintain a vehicle in the shape it was when the County took possession of it. He suggested that the tort claim be sent to the Risk Manager for review and recommendation.

Campbell suggested that the item be placed on pending for a specific time and requested that the claim be placed on a Thursday staff meeting agenda to discuss the parameters and a consistent policy.

MOTION: Hudkins moved and Workman seconded to place the political subdivision tort claim filed against Lancaster County by Dianna Hartigan on pending for 30 days and refer the claim to the Workers' Compensation and Risk Management Manager for review and recommendation. Stevens, Workman and Hudkins voted aye. Campbell and Heier voted no. Motion carried.

L. Appointment of Tom Danek (replacing Marsha Misle) to the Air Pollution Control Advisory Board, term to expire September 1, 2003.

MOTION: Hudkins moved and Stevens seconded approval. Campbell, Hudkins, Workman, Heier and Stevens voted aye. Motion carried.

6) **NEW BUSINESS CONTINUED:**

M. Two applications for Special Designated Permits from The Wine Merchants, Inc. to hold wedding receptions at Country Pines located at 6305 West Adams Street in Lancaster County, Nebraska. The McGrop reception will be held on Friday, September 28, 2001 from 4 p.m. to 1 a.m. and the Ambroz reception will be held on Saturday, September 29, 2001 from 4 p.m. to 1 a.m.

Mike Thew, Chief Deputy County Attorney of the Civil Division, gave a brief explanation with respect to the short time frame of the applications.

Campbell suggested the County Clerk's office send out notice regarding the guidelines for a Special Designated License within the County.

MOTION: Heier moved and Stevens seconded approval of two applications for Special Designated Permits from The Wine Merchants, Inc.

Stevens asked if the motion includes the conditions as outlined by the Sheriff's office.

FRIENDLY AMENDMENT: Approval of two applications for Special Designated Permits subject to conditions as outlined by the Sheriff and County Engineer.

ROLL CALL: Stevens, Workman, Heier, Campbell and Hudkins voted aye.
Motion carried.

7) **CONSENT ITEMS:** These are items of business that are routine and which are expected to be adopted without dissent. Any individual item may be removed for special discussion and consideration by a Commissioner or by any member of the public without prior notice. Unless there is an exception, these items will be approved as one with a single vote of the Board of Commissioners. These items are approval of:

A. Receive and Place on File:

1. Lancaster Manor's Monthly Report.

B. A resolution in the matter of an application for a Class M (Bottle Club) liquor license from Raymono's Pizza Plus Inc. d/b/a Raymono's Pizza Plus Inc. located at 5580 West Mill Road, Suite D in Lancaster County, Nebraska. (R-01-93)

7) **CONSENT ITEMS CONTINUED:**

C. A resolution in the matter of County Special Permit 186, requested by Trent P. Anderson, Diamond Head Ranch Golf Club, L.L.C., for authority to operate an 18 hole golf course with clubhouse, on property generally located at Northwest 140th and West Holdrege Streets in Lancaster County, Nebraska. (R-01-95)

D. Right-of-way contracts relating to road improvements between the Lancaster County Engineering Department and the following individuals:

- ▶ David and Lori Lueckenhoff, in the total amount of \$8,126.60, at 14401 Old Cheney Road; Project C55-Q-407(1). (3 contracts) (C-01-467 through C-01-469)
- ▶ Richard and Paula Garcia, in the amount of \$292.31, at 6200 West Adams Street; Project C.P.M-97. (C-01-466)

MOTION: Heier moved and Stevens seconded approval of the Consent Items. Workman, Heier, Campbell, Stevens and Hudkins voted aye. Motion carried.

8) **OTHER BUSINESS:**

The Chair announced that the Election Commissioner's newly renovated office, located at 601 North 46th Street, will be dedicated Thursday, September 20, 2001 at 2 p.m..

9) **ADJOURNMENT**

MOTION: Heier moved and Stevens seconded adjournment of the Board of Commissioners meeting at 3:45 p.m. Heier, Workman, Hudkins, Campbell and Stevens voted aye. Motion carried.

Bruce Medcalf
County Clerk